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CHAKA TART

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CHAKA TART,

Plaintiff,

vs.

INDEPENDENT RECOVERY,  
INC., a California corporation; and  
DOES 1 through 10, inclusive,

Defendants.

Case No. 8:23-cv-628

**COMPLAINT FOR WRONGFUL  
REPOSSESSION**

DEMAND FOR JURY TRIAL

Plaintiff Chaka Tart alleges as follows:

**INTRODUCTION**

1. This is a consumer case brought by plaintiff Chaka Tart to address a manifestly wrongful “self-help” (i.e., nonjudicial) repossession of her car. Self-help repossession is “inherently dangerous” with “a potential for violence.” Sogn v. Alaska USA Fed. Credit Union, No. C17-432 MJP, 2018 WL 4488606, at \*4 (W.D. Wash. Sept. 19, 2018). It, therefore, is permissible only if it can be completed without a breach of the peace. Cal. Comm. Code § 9609(b)(2). As alleged herein, defendant Independent Recovery, Inc. (“IR”) completed the repossession of plaintiff’s vehicle in clear breach of the peace with full knowledge that *plaintiff was at her late mother’s wake*, in violation of California Commercial Code

1 § 9609(b)(2), federal and California statutory laws, and the common law. IR's  
2 breaches of the peace included continuing repossession efforts over plaintiff's  
3 objection and with plaintiff in her car, threatening the use of law enforcement and  
4 plaintiff's arrest to complete the repossession, putting plaintiff in immediate fear of  
5 harm to herself and her property, and lying to gain possession of plaintiff's car.

6 2. After the unlawful repossession, plaintiff paid her finance company to  
7 reinstate her contract, and IR then, with no legal right to do so, demanded that  
8 plaintiff also pay IR hundreds of dollars and sign an illegal general release – before  
9 plaintiff could even see her car, let alone regain possession of it. Adding to  
10 plaintiff's injuries, IR returned her car in damaged condition. Plaintiff brings this  
11 case to, among other things, recover the amounts paid to IR, be fully compensated  
12 for her out-of-pocket and emotional distress damages, and obtain an award of  
13 punitive damages to punish IR for its despicable conduct towards plaintiff and  
14 discourage similar conduct in the future.

#### 15 **JURISDICTION AND VENUE**

16 3. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1331  
17 and 15 U.S.C. § 1692(k), and supplemental jurisdiction of the state law claims  
18 alleged herein pursuant to 28 U.S.C. § 1367.

19 4. Venue is proper in the Central District in that it is a judicial district in  
20 which a substantial part of the events or omissions giving rise to plaintiff's claims  
21 occurred, or a substantial part of property that is the subject of this action is situated,  
22 and defendants are subject to personal jurisdiction in this District.

#### 23 **PARTIES**

24 5. Plaintiff is an individual over the age of 18, a resident of Los Angeles  
25 County and a citizen of California.

26 6. Defendant IR is a "repossession agency" under California Business and  
27 Professions Code § 7500.2 and a California corporation with its principal place of  
28 business in Rancho Santa Margarita, California.

1           7.     Plaintiff does not know the true names, identities and capacities of  
2 Does 1 through 10, inclusive. Plaintiff, therefore, sues those defendants by fictitious  
3 names. Plaintiff will amend this Complaint to allege the true names, identities and  
4 capacities of the Doe defendants when plaintiff discovers such information.

5                                   **OPERATIVE FACTS**

6           8.     Plaintiff purchased a motor vehicle on credit primarily for personal,  
7 family or household use from a car dealership in California pursuant to a retail  
8 installment sale contract. Plaintiff's finance company hired IR to repossess  
9 plaintiff's vehicle by "self-help" (i.e., nonjudicial) means, based on an alleged  
10 payment default.

11          9.     On November 30, 2022, plaintiff was at a church in Long Beach, where  
12 she was attending the wake for her late mother. In the dark, early evening hours, she  
13 went to her car to leave. As she was driving out of the parking lot, IR's repossession  
14 agent/employee quickly drove his tow truck right in front of plaintiff's car, so that  
15 she couldn't leave the parking lot.

16          10.    IR's repossession agent/employee – a relatively large man – quickly  
17 exited his truck, positioned himself at the driver's side of plaintiff's car, and shined  
18 his flashlight on plaintiff and her car's front window. Without ever identifying  
19 himself or his company, the man then told plaintiff that he was there to repossess her  
20 car and demanded she surrender it. Plaintiff, who was sitting in the driver's seat,  
21 repeatedly, clearly and unequivocally objected to the man taking her car. Plaintiff  
22 specifically told the man that she had just spoken to her finance company on  
23 November 29, 2022, and plaintiff was assured that she would have additional time to  
24 make a payment and there would be no repossession of her car during that time.  
25 Plaintiff also informed the IR's repossession agent/employee that his conduct was  
26 causing her tremendous distress as she was trying to leave her mother's wake. The  
27 man told plaintiff he knew that she was attending her mother's wake.

1           11.     Confronted with plaintiff's clear and unequivocal objections to any  
2 repossession, IR's repossession agent/employee didn't cease all repossession efforts,  
3 as required by law. Instead, he continued his repossession efforts while plaintiff was  
4 seated in her car and obviously distraught, in breach of the peace. IR's repossession  
5 agent/employee committed additional breaches of the peace by (1) putting plaintiff  
6 in fear of immediate harm to herself and her property, in that he blocked her car and  
7 stopped plaintiff from driving away, stood at the driver's side entry of plaintiff's car  
8 in a menacing manner, and refused to leave despite plaintiff's repeated requests for  
9 him to leave; (2) threatening plaintiff that IR's repossession agent/employee had  
10 contacted the police and they were on the way; (3) threatening plaintiff that she was  
11 being recorded on camera and would be arrested if she didn't surrender her car; and  
12 (4) lying to plaintiff to gain possession of her car, in that plaintiff is informed and  
13 believes that IR's repossession agent/employee didn't actually contact law  
14 enforcement, and he wasn't recording her.

15           12.     The conduct, threats and representations of IR's repossession  
16 agent/employee caused plaintiff to suffer immense fear of possible arrest and  
17 physical harm to herself and/or her car, as she was trapped in the parking lot by IR's  
18 tow truck and repossession agent/employee. She also was greatly concerned about  
19 her already distressed family members witnessing the events happening outside her  
20 mother's wake. Plaintiff thus believed she had no choice but to surrender her car to  
21 IR's repossession agent/employee, which she reluctantly did. Plaintiff then went  
22 back inside the church where her mother's wake was being held, severely frightened  
23 and sobbing.

24           13.     After the illegal repossession, plaintiff paid her finance company over  
25 \$1,300 to reinstate her contract. Plaintiff is informed and believes that amount  
26 included reimbursement for IR's repossession fee charged to plaintiff's finance  
27 company, which IR wasn't entitled to, at all, due to its breach of the peace in taking  
28 plaintiff's car.

1           14. After plaintiff paid the money to reinstate her contract, plaintiff's  
2 finance company instructed IR to release the vehicle back to plaintiff. However,  
3 before IR would allow plaintiff to even see her car, IR required plaintiff to pay IR  
4 \$455 in cash. IR was not entitled to demand any money from plaintiff, due to its  
5 breach of the peace and illegal repossession. IR also never sent plaintiff any notice  
6 of seizure or personal effects, so it was prohibited by law from charging any storage  
7 or related fees to plaintiff. See Cal. Bus. & Prof. Code §§ 7507.9(d) and 7507.10(f).

8           15. IR additionally required plaintiff to sign a "Vehicle and Personal  
9 Property Release" before plaintiff could even see her car, which contained the  
10 following terms: (1) that plaintiff had "carefully examined" her vehicle, and made  
11 sure there was no damage to the vehicle which didn't exist prior to the repossession  
12 or which wasn't in IR's condition report; (2) that plaintiff had examined all personal  
13 belongings that were in her vehicle at the time of the repossession, and all were  
14 accounted for without any damage; (3) that plaintiff generally released "all claims,  
15 demands and or actions" plaintiff had or may have had as of that date against IR and  
16 her finance company or its agents.

17           16. Plaintiff insisted that she see her vehicle before signing or paying  
18 anything, but IR would not allow her to do so. Plaintiff thus paid IR \$455 in cash  
19 and signed its Vehicle and Personal Property Release under duress, and before she  
20 ever was able to inspect her car. Plaintiff later discovered damage to her vehicle  
21 which occurred during IR's unlawful repossession and/or while it was in IR's  
22 possession.

23           17. IR uses the Vehicle and Personal Property Release (as well as falsified  
24 "condition reports" indicating pre-existing damages to consumers' cars) to chill  
25 consumer claims, by trying to trick consumers, like plaintiff, into believing they  
26 can't sue IR or their finance company for anything that happened prior to the date  
27 they retrieve their repossessed cars. In actuality, IR's release is unlawful,  
28 unconscionable and unenforceable for at least the following reasons: The consumer

1 rights and causes of action afforded by the Rosenthal Fair Debt Collection Practices  
2 Act, Cal. Civ. Code §§ 1788, et seq. (“Rosenthal Act”), are nonwaivable, see Cal.  
3 Civ. Code § 1788.33; there was no consideration supporting the purported release  
4 because IR had a preexisting legal duty to return plaintiff’s vehicle and personal  
5 property, and a preexisting legal duty cannot serve as consideration for an  
6 agreement; the release was obtained under duress, and is procedurally and  
7 substantively unconscionable; and all contractual provisions which have for their  
8 object, directly or indirectly, to exempt anyone from obeying the laws of California,  
9 are unlawful and void, id., § 1668, and laws established for a public reason cannot  
10 be waived by private agreement, id. § 3513.

11 **FIRST CLAIM FOR RELIEF – VIOLATIONS OF THE FAIR DEBT**  
12 **COLLECTION PRACTICES ACT**  
13 **(Against All Defendants)**

14 18. Plaintiff realleges and incorporates herein by reference the allegations  
15 in all of the above paragraphs.

16 19. Congress enacted the Fair Debt Collection Practices Act, 15 U.S.C.  
17 §§ 1692, et seq. (“FDCPA”), to “eliminate abusive debt collection practices by debt  
18 collectors, to insure that those debt collectors who refrain from using abusive debt  
19 collection practices are not competitively disadvantaged, and to promote consistent  
20 State action to protect consumers against debt collection abuses.” Id., § 1692(e).

21 20. Plaintiff is a “consumer” within the meaning of 15 U.S.C. § 1692a(3) in  
22 that she is a natural person obligated or allegedly obligated to pay a “debt”.

23 21. Defendants are “debt collectors” within the meaning of 15 U.S.C.  
24 § 1692a(6) in that they are persons who use an instrumentality of interstate  
25 commerce or the mails in a business the principal purpose of which is the  
26 enforcement of security interests.

27 22. The purported debt which defendants attempted to collect from plaintiff  
28 is a “debt” within the meaning of 15 U.S.C. § 1692a(5). Defendants sought to

1 enforce a security interest related to plaintiff's obligation or alleged obligation to  
2 pay money to plaintiff's finance company, arising out of a transaction in which the  
3 property which was the subject of the transaction (plaintiff's vehicle) was primarily  
4 for personal, family or household purposes.

5 23. Defendants violated 15 U.S.C. § 1692f(6) by taking any nonjudicial  
6 action to effect dispossession or disablement of property (plaintiff's vehicle) when  
7 there was no present right to possession of the property claimed as collateral through  
8 an enforceable security interest. Defendants had no present right to possession of  
9 plaintiff's vehicle, due to their breach of the peace.

10 24. As a direct and proximate result of defendants' violations of the  
11 FDCPA, plaintiff has been damaged in amounts which are subject to proof.

12 25. Plaintiff has suffered, and is entitled to recover, her actual damages  
13 pursuant to 15 U.S.C. § 1692k(a)(1).

14 26. Plaintiff is entitled to recover the maximum statutory damages of  
15 \$1,000 pursuant to 15 U.S.C. § 1692k(a)(2)(A).

16 27. Plaintiff is entitled to recover her attorney's fees and costs pursuant to  
17 15 U.S.C. § 1692k(a)(3).

18 WHEREFORE, plaintiff prays for relief as set forth below.

19 **SECOND CLAIM FOR RELIEF – VIOLATIONS OF THE ROSENTHAL**  
20 **ACT**

21 **(Against All Defendants)**

22 28. Plaintiff realleges and incorporates herein by reference the allegations  
23 in all of the above paragraphs.

24 29. The California Legislature enacted the Rosenthal Act to ensure the  
25 integrity of our banking and credit industry, finding that "unfair or deceptive debt  
26 collection practices undermine the public confidence which is essential to the  
27 continued functioning of the banking and credit system and sound extensions of  
28 credit to consumers." Cal. Civ. Code §§ 1788.1(a)(2) & 1788.1(b).

1           30. Plaintiff is a “debtor” within the meaning of Civil Code § 1788.2(h) in  
2 that she is a natural person from whom defendants sought, directly or indirectly, to  
3 collect a “consumer debt” alleged to be due and owing by reason of a consumer  
4 credit transaction. “Debt” is defined under the Rosenthal Act to mean “money,  
5 property or their equivalent which is due or owing or alleged to be due or owing  
6 from a natural person to another person.” Id., § 1788.2(d).

7           31. Defendants are “debt collectors” within the meaning of California Civil  
8 Code § 1788.2(c), in that they regularly and in the ordinary course of business, on  
9 behalf of themselves or others, directly or indirectly engage in acts and practices in  
10 connection with the collection of money or property which is due or alleged be due  
11 or owing by reason of a consumer credit transaction.

12           32. Defendants violated Civil Code § 1788.10(a) by using, or threatening to  
13 use, any criminal means to cause harm to the person, or the reputation, or the  
14 property of any person. The criminal laws violated by defendants include California  
15 Business and Professions Code § 7502.1(a), by violating California Business and  
16 Professions Code §§ 7508.3, 7508.3(d) and 7508.3(e).

17           33. Defendants violated the provisions of Civil Code § 1788.10(b) by  
18 threatening that the failure to pay a consumer debt would result in an accusation that  
19 plaintiff had committed a crime where such accusation, if made, would be false.

20           34. Defendants violated the provisions of Civil Code § 1788.10(e) by  
21 threatening to any person that nonpayment of the consumer debt may result in the  
22 arrest of plaintiff, when such action was not in fact contemplated by defendants and  
23 permitted by law.

24           35. Defendants violated the provisions of Civil Code § 1788.14(b) by  
25 collecting or attempting to collect from plaintiff the whole or any part of defendants’  
26 fee or charge for services rendered, or other expense incurred by defendants, when it  
27 was not permitted by law.

28           36. Defendants violated the following provisions of the FDCPA, which

1 violated the Rosenthal Act, at Civil Code § 1788.17, entitling plaintiff to the  
2 remedies set forth in 15 U.S.C. § 1692k:

3           • 15 U.S.C. § 1692d, by engaging in any conduct the natural  
4 consequence of which is to harass, oppress, or abuse any person in connection with  
5 the collection of a debt;

6           • 15 U.S.C. § 1692(d)(1), by using criminal means to harm  
7 plaintiff's property, as alleged herein;

8           • 15 U.S.C. § 1692e, by using any false, deceptive, or misleading  
9 representation or means in connection with the collection of any debt;

10           • 15 U.S.C. § 1692e(4), by representing or implying that  
11 nonpayment of any debt would result in the arrest or imprisonment of any person or  
12 the seizure, garnishment, attachment, or sale of any property or wages of any person  
13 when such action wasn't lawful and defendants didn't intend to take such action;

14           • 15 U.S.C. § 1692e(5), by threatening to take any action that  
15 couldn't legally be taken or that was not intended to be taken;

16           • 15 U.S.C. § 1692f, by using unfair or unconscionable means to  
17 collect or attempt to collect a debt; and

18           • 15 U.S.C. § 1692f(6), by taking any nonjudicial action to effect  
19 dispossession or disablement of property when there was no present right to  
20 possession of the property claimed as collateral through an enforceable security  
21 interest, due to defendants' breach of the peace.

22           37. Plaintiff has suffered, and is entitled to recover, her actual damages  
23 pursuant to Civil Code § 1788.17, incorporating by reference 15 U.S.C.  
24 § 1692k(a)(1), or in the alternative, Civil Code § 1788.30(a).

25           38. Defendants' violations of the Rosenthal Act were willful and knowing.  
26 Plaintiff is entitled to recover the maximum statutory damages of \$1,000 pursuant to  
27 Civil Code § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(2)(A), and  
28 Civil Code § 1788.30(b).

1           39. Plaintiff is entitled to recover her attorney's fees and costs pursuant to  
2 Civil Code § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(3), or in the  
3 alternative, Civil Code § 1788.30(c).

4           WHEREFORE, plaintiff prays for relief as set forth below.

5                           **THIRD CLAIM FOR RELIEF – CONVERSION**

6   **(Against All Defendants)**

7           40. Plaintiff realleges and incorporates herein by reference the allegations  
8 in all of the above paragraphs.

9           41. At all times relevant, plaintiff was entitled to immediate possession of  
10 her vehicle vis-à-vis defendants.

11          42. Defendants wrongfully deprived plaintiff of possession of the vehicle  
12 by repossessing it in breach of the peace, and thereafter retaining it without any right  
13 to do so.

14          43. As a direct and proximate result of defendants' conversion, plaintiff has  
15 been damaged in amounts which are subject to proof.

16          44. Plaintiff is entitled to recover punitive damages from defendants an  
17 amount according to proof for defendants' conversion, to punish defendants for the  
18 conduct that harmed plaintiff and to discourage similar conduct in the future.  
19 Defendants acted with oppression, fraud or malice, within the meaning of California  
20 Civil Code § 3294. Defendants' corporate officers, directors, or managing agents are  
21 personally guilty of oppression, fraud or malice, had advance knowledge of the  
22 unfitness of the employees who acted towards plaintiff with malice, oppression, or  
23 fraud, employed such employees with conscious disregard for the rights or safety of  
24 others, and/or themselves authorized or ratified the wrongful conduct.

25          WHEREFORE, plaintiff prays for relief as set forth below.

26                           **PRAYER FOR RELIEF**

27          WHEREFORE, plaintiff prays for the following relief:

28          1. Actual damages;

2. Statutory damages;
3. Punitive damages;
4. Injunctive relief;
5. Pre-judgment interest to the extent permitted by law;
6. An award of plaintiff's attorney's fees, costs and expenses incurred in the investigation, filing and prosecution of this action; and
7. For such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury.

Respectfully submitted,

Dated: April 10, 2023

LAW OFFICES OF BRANDON A. BLOCK  
A PROFESSIONAL CORPORATION

/s/ Brandon A. Block  
Brandon A. Block

Attorneys for Plaintiff  
CHAKA TART